

Message Text

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ACTION OES-03

INFO OCT-01 IO-04 ISO-00 ACDA-05 CIAE-00 INR-05 L-02

NSAE-00 NSC-05 RSC-01 FEA-01 OIC-01 AF-04 ARA-06

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R 221443Z OCT 74

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC 5192

INFO AEC GERMANTOWN

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E.O. 11652: N/A

TAGS: PARM, TECH, IAEA, US

SUBJECT: U.S. VOLUNTARY OFFER SAFEGUARDS AGREEMENT

REF: IAEA VIENNA 7680

1. FOLLOWING ARE MISSION'S RECOMMENDATIONS AND COMMENTS
RE AGENCY SUGGESTIONS REPORTED REFTEL.

2. RECOMMENDED ACCEPTANCE CHANGES SUGGESTED PARAS 1, 2,
3, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 18 AND 21. NOTE
THAT REFERENCE IN PARA 16 REFTEL SHOULD HAVE READ "ARTICLE
39.B(I)."

3. RE PARA 4 REFTEL, FOLLOWING IS MISSION REDRAFT
ARTICLE 12:

QUOTE: A. THE UNITED STATES SHALL HAVE THE RIGHT TO
WITHDRAW NUCLEAR MATERIAL SUBJECT TO SAFEGUARDS UNDER THIS
AGREEMENT AND TRANSFER SUCH MATERIAL TO DESTINATIONS WITHIN
THE UNITED STATES, OTHER THAN THOSE FACILITIES IDENTI-
FIED BY THE AGENCY, PURSUANT TO ARTICLES 2.B AND 39.B.

THE UNITED STATES SHALL NOTIFY THE AGENCY OF EACH SUCH
WITHDRAWAL IN ACCORDANCE WITH THE RELEVANT PROVISIONS

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OF PART II OF THIS AGREEMENT. IN EACH SUCH CASE, THE

AGENCY SHALL DISCONTINUE THE APPLICATION OF SAFEGUARDS UNDER THIS AGREEMENT TO SUCH MATERIAL WHEN IT IS WITHDRAWN FROM THE FACILITY IN WHICH IT HAS BEEN SAFEGUARDED. THE APPLICATION OF SAFEGUARDS TO SUCH WITHDRAWN MATERIAL SHALL BE DISCONTINUED UNTIL SUCH TIME THAT THE MATERIAL (A) IS PRESENT IN A FACILITY WHICH HAS BEEN IDENTIFIED BY THE AGENCY PURSUANT TO ARTICLE 2.B OR 39.B OR (B) OTHERWISE BECOMES SUBJECT TO SAFEGUARDS. IF SUCH WITHDRAWN MATERIAL HAS BEEN TRANSFERRED TO AN ACTIVITY WITH DIRECT NATIONAL SECURITY SIGNIFICANCE TO THE UNITED STATES, THE UNITED STATES SHALL ASSURE THE AGENCY THAT THE INTENDED USE OF THE NUCLEAR MATERIAL WILL NOT BE IN CONFLICT WITH AN UNDERTAKING THE UNITED STATES MAY HAVE GIVEN AND IN RESPECT OF WHICH AGENCY SAFEGUARDS APPLY, THAT THE MATERIAL WILL BE USED ONLY IN A PEACEFUL NUCLEAR ACTIVITY. THE AGENCY SHALL MAINTAIN RECORDS INDICATING EACH SUCH WITHDRAWAL AND, WHERE APPLICABLE, THE RE-APPLICATION OF SAFEGUARDS TO THE WITHDRAWN NUCLEAR MATERIAL.

B. THE UNITED STATES SHALL HAVE THE RIGHT TO WITHDRAW NUCLEAR MATERIAL SUBJECT TO SAFEGUARDS UNDER THIS AGREEMENT AND TRANSFER SUCH MATERIAL TO DESTINATIONS OUTSIDE THE UNITED STATES. THE UNITED STATES SHALL NOTIFY THE AGENCY OF EACH SUCH WITHDRAWAL AND TRANSFER IN ACCORDANCE WITH THE RELEVANT PROVISIONS OF PART II OF THIS AGREEMENT. IN EACH SUCH CASE, THE AGENCY SHALL DISCONTINUE THE APPLICATION OF SAFEGUARDS UNDER THIS AGREEMENT TO SUCH MATERIAL WHEN IT IS WITHDRAWN FROM THE FACILITY IN WHICH IT HAS BEEN SAFEGUARDED. THE APPLICATION OF SAFEGUARDS TO SUCH WITHDRAWN MATERIAL SHALL BE DISCONTINUED UNTIL SUCH TIME THAT (A) THE MATERIAL BECOMES SUBJECT TO SAFEGUARDS IN ANOTHER STATE OR (B) SUCH STATE, BY ARRANGEMENT WITH THE AGENCY AND THE UNITED STATES, ASSUMES RESPONSIBILITY FOR SUCH MATERIAL. UNQUOTE

4. FURTHER TO PARA 4 REFTTEL, FOLLOWING IS MISSION REDRAFT ARTICLE 34.B:

QUOTE: PURSUANT TO ARTICLE 1.B, FACILITIES SHALL BE ADDED TO OR REMOVED FROM THE LIST, AS THE CASE MAY BE, LIMITED OFFICIAL USE

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IN ACCORDANCE WITH, AND AT THE TIMES SPECIFIED IN, NOTIFICATION BY THE UNITED STATES. IN THE CASE OF REMOVAL OF A FACILITY THEN CURRENTLY IDENTIFIED BY THE AGENCY PURSUANT TO ARTICLES 2.B AND 39.B, THE NUCLEAR MATERIAL THEN CONTAINED IN THE FACILITY SHALL BE CONSIDERED TO BE WITHDRAWN AND TRANSFERRED PURSUANT TO ARTICLE 12.A, THE PROVISIONS OF WHICH SHALL APPLY TO SUCH MATERIAL. THE APPLICATION OF SAFEGUARDS UNDER THIS AGREEMENT TO SUCH

MATERIAL SHALL BE DISCONTINUED IN ACCORDANCE WITH, AND
AT THE TIME SPECIFIED IN, NOTIFICATION BY THE UNITED
STATES OF THE REMOVAL OF THE FACILITY FROM THE LIST.
UNQUOTE.

5. RE PARA 6 REFTTEL, MISSION APPRECIATES SECRETARIAT
EFFORT TO HAVE AGREEMENT PROVISIONS APPEAR AS CLOSE AS
POSSIBLE TO THOSE OF NNWS'S, AND TO PROVIDE THE SAME
SANCTIONS AS IN CASE OF NON-COMPLIANCE. MISSION HAS NO
STRONG POSITION ON SECRETARIAT SUGGESTION. WE EXPECT
THAT THOSE NNWS'S HAVING AN INTEREST IN THE U.S. OFFER
WILL PROBABLY MAKE DEBATING POINT THAT, UNLESS USG
SUBJECT TO IDENTICAL SANCTIONS, USG WILL NOT BE UNDER
SAME PRESSURE TO ASSURE THAT U.S. FACILITIES WILL
RECEIVE FULL IMPACT OF IAEA SAFEGUARDS. WE SUGGEST
WAITING UNTIL CONSULTATIONS WITH NNWS'S WHEN IMPORTANCE
THIS POINT CAN BE ASSESSED.

6. RE PARA 14 REFTTEL, MISSION INCLINED TO ACCEPT
SECRETARIAT SUGGESTION ON BASIS OF SYMMETRY WITH NNWS'S
AGREEMENT PROVISIONS, PARTICULARLY SINCE USG WILL HAVE
SOLE CONTROL OVER WHICH FACILITIES WILL BE LISTED AT ANY
GIVEN TIME. MORE IMPORTANTLY, PROVISION WHICH SECRETARIAT
WISHES ADD IS ONE WHICH U.S. INSISTED UPON IN NEGOTIATION
OF INFCIRC/153, IN LIGHT OF EXPERIENCE SHOWING THAT
APPLICATION OF SAFEGUARDS WAS BEING FRUSTRATED INDEFINITELY
BY BAILURE OF STATES TO COMPLETE SUBSIDIARY ARRANGEMENTS.

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ACTION OES-03

INFO OCT-01 IO-04 ISO-00 ACDA-05 CIAE-00 INR-05 L-02

NSAE-00 NSC-05 RSC-01 FEA-01 OIC-01 AF-04 ARA-06

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7. RE PARA 17, MISSION PREFERS RETAIN REFERENCES TO OTHER ARTICLES IN ORDER TO PRESERVE DISTINCTION BETWEEN DESIGN REVIEW, RECORDS AND REPORTS PURSUANT PARTS I AND II (IN CONTEXT OF "SAFEGUARDS") AND SIMILAR PROVISIONS OF PROTOCOL WHICH CAREFULLY AVOIDS CHARACTERIZING SUCH MEASURES AS "SAFEGUARDS", WHEN UNASSOCIATED WITH INSPECTION.

8. RE PARA 19, FIRST SENTENCE PARA 20 AND PARA 24 REFTEL, MISSION RECOMMENDS REJECTION THOSE SUGGESTIONS, IN LIGHT INSTRUCTIONS RECEIVED IN CONNECTION NEGOTIATION INFCIRC/207 WITH UK AND USSR, AND UNWILLINGNESS USSR TO AGREE AT THIS TIME TO SAMPLING OF OR APPLICATION OF SEALS TO EXPORTS.

9. RE SECOND SENTENCE PARA 20 REFTEL, MISSION RECOMMENDS ACCEPTANCE SUGGESTED CHANGE TO ARTICLE 74.A(NOT RPT NOT 71.A).

10. RE PARA 22 REFTEL, MISSION SUGGESTS FOLLOWING FOR CONSIDERATION AS NEW SUB-PARA (D) ARTICLE 79:

QUOTE: D. INTERNATIONAL INTERDEPENDENCE, IN PARTICULAR TO THE EXTENT TO WHICH NUCLEAR MATERIAL, SAFEGUARDED LIMITED OFFICIAL USE

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UNDER THIS AGREEMENT, IS RECEIVED FROM OR SENT TO OTHER STATES FOR USE OR PROCESSING, AND THE EXTENT TO WHICH ACTIVITIES IN FACILITIES IN WHICH SAFEGUARDS ARE APPLIED UNDER THIS AGREEMENT ARE INTERRELATED WITH THOSE OF OTHER STATES; AND UNQUOTE

11. RE PARA 23 REFTEL, MISSION RECOMMENDS ACCEPTANCE, WITH SLIGHT CHANGE TO SECRETARIAT SUGGESTION, SO THAT OPENING PHRASE ARTICLE 79.C READS, "CHARACTERISTICS OF THAT PART OF THE UNITED STATES FUEL CYCLE IN WHICH SAFEGUARDS ARE APPLIED UNDER THIS AGREEMENT, IN PARTICULAR, THE NUMBER, ETC."

12. WHILE UNMENTIONED REFTEL, SECRETARIAT RAISED QUESTION OF INCLUSION OF PROVISIONS RE INTERNATIONAL TRANSFERS, IN LIGHT INFCIRC/207. JACKSON (UK) HAD SUGGESTED, PRIOR TO NEGOTIATION OF INFCIRC/207, POSSIBILITY OF BRIEF PROVISION MAKING REFERENCE TO REPORTING INTERNATIONAL TRANSFERS, "IN ACCORDANCE WITH ARRANGEMENTS MADE SEPARATELY" WITH AGENCY. IN LIGHT PUBLICATION INFCIRC/207, MISSION SUGGESTS NEW ARTICLE 89, AS FOLLOWS:

QUOTE: INFORMATION CONCERNING NUCLEAR MATERIAL EXPORTED
FROM AND IMPORTED INTO THE UNITED STATES SHALL BE PROVIDED
TO THE AGENCY IN ACCORDANCE WITH ARRANGEMENTS MADE WITH
THE AGENCY AS, FOR EXAMPLE, THOSE SET FORTH IN INFCIRC/207.
UNQUOTE

13. IF FOREGOING SUGGESTION, OR SIMILAR PROVISION, IS
ACCEPTABLE, MISSION WOULD RECOMMEND FOR CONSIDERATION
FURTHER PROVISION, PERHAPS AS SUO-PARA, ALONG LINES PARA
97 INFCIRC/153, CALLING FOR SPECIAL REPORT IN EVENT
UNUSUAL INCIDENT, ETC. IN CONNECTION INTERNATIONAL TRANS-
FER. SUCH PROVISION WOULD BE CONSISTENT WITH RECENT
EXPRESSION OF CONCERN RE LOSS OR THEFT OF MATERIAL
DURING TRANSPORT.

14. MISSION PREFERS ADDRESS SECRETARIAT COMMENTS ON
PROTOCOL AFTER FOREGOING ISSUES RE AGREEMENT RESOLVED
AND FURTHER EXPECTED COMMENTS FROM SECRETARIAT RECEIVED.

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15. FOREGOING RECOMMENDATIONS HAVE NOT RPT NOT BEEN
DISCUSSED WITH SECRETARIAT. PLEASE ADVISE. PORTER

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